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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,667	10/16/2003	Abraham Glezerman	04291/100M649-US1	2666
7278	7590	02/10/2006	EXAMINER	
DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			NGUYEN, KHAI MINH	
			ART UNIT	PAPER NUMBER
			2687	

DATE MAILED: 02/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,667

Applicant(s)

GLEZERMAN, ABRAHAM

Examiner

Khai M. Nguyen

Art Unit

2687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 11, 13-17 and 21-27 is/are rejected.
- 7) ☒ Claim(s) 4-8, 10, 12 and 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office Action is response to Amendment filed on 11/30/2005
Claims 1-27 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **1-3, 13-17, 21-23, and 27** are rejected under 35 U.S.C. 102(e) as being anticipated by Tong (U.S.Pub-20030003969).

Regarding claim 1, Tong teaches a wireless communications kit for use with a cellular telephone (abstract), comprising:

a communications headset having a mount (fig.5a-5c, paragraph 0032);

a first attachment shaped to secure itself to the mount (fig. 5a-5ac).and
configured to seat itself about an ear of a user (fig.5a-5c, paragraph 0032)

a second attachment shaped to secure itself to the mount (fig.6a-6b) and
including a top portion arranged to attach to a temple member of a pair of glasses .
(fig.6a-6b, paragraph 0033).

Regarding claim 2, Tong teaches the wireless communications kit of claim 1,
wherein the communications headset includes a housing attached to the mount
(abstract), the housing including a microphone (fig.1, microphone 34), a speaker
(earphone 21), a rechargeable battery and communications circuitry therein (*the
wireless headset have battery and communications circuitry*), the microphone and
speaker being in communication with the cellular telephone (fig.1, paragraph 0023), the
communications circuitry having the microphone as an input and the speaker as an
output (fig.1, paragraph 0023).

Regarding claim 3, Tong teaches the wireless communications kit of claim 2,
wherein the mount comprises a slot through the housing of the communication headset
(fig.5-6, paragraph 0032-0033).

Regarding claim 13, Tong teaches the wireless communications kit of claim 1, wherein the top portion includes:

a face with serrations to securely engage to a temple member of a pair of glasses (fig.5-6, paragraph 0032-0033); and

a cooperating mechanism operative to move relative to the face between an open and a closed position (fig.5-6, paragraph 0032-0033).

Regarding claim 14, Tong teaches the wireless communications kit of claim 13, wherein the cooperating mechanism is a clip (fig.5-6, paragraph 0032-0033).

Regarding claim 15, Tong teaches the wireless communications kit of claim 13, wherein the cooperating mechanism is a spring-loaded lever (fig.5-6, paragraph 0032-0033).

Regarding claim 16, Tong teaches the wireless communications kit of claim 13, wherein the cooperating mechanism locks into a closed position to secure the communications headset to the temple member (fig.5-6, abstract, paragraph 0032-0033).

Regarding claim 17, Tong teaches the wireless communications kit of claim 2, wherein the mount comprises a post having a free end extending from the housing of the communication headset (fig.5-6, abstract, paragraph 0032-0033).

Regarding claim 21, Tong teaches the wireless communications kit of claim 18, wherein the post includes an inner channel having a bent portion for receiving the leg (fig.5-6, abstract, paragraph 0032-0033).

Regarding claim 22, Tong teaches the wireless communications kit of claim 2 further comprising a transceiver connectable to a communications jack on the cellular telephone by wires (fig.1, 9), the communications circuitry within the communications headset communicating in a wireless manner with the transceiver (fig.1, paragraph 0023).

Regarding claim 23, Tong and Chung further teaches the wireless communications kit of claim 22, further comprising a fastener on each of the transceiver and the cellular telephone that secures the transceiver and the cellular telephone together (fig.1, paragraph 0023).

Regarding claim 27, Tong teaches a method for wireless communication between a communication headset and a cellular telephone (abstract), comprising the steps of:

securing an attachment to a mount on the communication headset (fig.5-6), the attachment being selected from the group of an ear loop (fig.5a-5c), and a securement configured to grasp the temple member of a pair of glasses (fig.6a-6b);

engaging the attachment to one of a user's ear and the temple member so as to position the communication headset proximate to the user's ear (fig.5-6, paragraph 0032-0033); and

communicating through the communications headset (fig.1, paragraph 0023).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 11, 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tong (U.S.Pub-20030003969) in view of Tong (U.S.Pub-20030003969).

Regarding claims 9 and 11, Tong teaches the wireless communications kit of claim 2,

Tong fails to teaches the mount includes a magnet secured to the housing the mount includes a magnetically permeable portion secured to the housing.

Tong disclose a communications kit of headset (fig.1, fig.5a-5c, paragraph 0032). It would have been obvious matter of design choice to modify Tong by having the ear hook of the headset, since application has not disclosed that particular form any stated problem and it appears that the ear hook would perform equally well in the mount of the housing for the intended purpose of the desired personal expression of the end user.

Regarding claim 24, Tong teaches a wireless communications kit for use with a cellular telephone (abstract), comprising:

a communications headset having a housing (fig.1, headset 10, paragraph 0023);

a housing attachment component having a lower end secured to the housing and an upper end having an extension (fig.5-6, paragraph 0032-0033).

an eyeglass attachment component arranged to attach to a temple member of a pair of glasses (fig.6a-6b, paragraph 0033); and

Tong fails to teaches a magnetic securement arranged to magnetically secure the extension to the eyeglass attachment component. Tong disclose a communications kit of headset (fig.1, 5-6, paragraph 0032-0033). It would have been obvious matter of design choice to modify Tong by having the eyeglass attachment, since application has not disclosed that particular form any stated problem and it appears that the eyeglass attachment would perform equally well in securement arranged the extension to the eyeglass attachment component for the intended purpose of the desired personal expression of the end user.

Regarding claim 25, Tong teaches the wireless communication kit of claim 24, wherein the lower end of the housing attachment is hingeably secured to the housing (fig.5-6, abstract, paragraph 0032-0033).

Regarding claim 26, Tong teaches the wireless communications kit of claim 24, wherein the housing attachment component is permanently affixed to the housing (fig.5-6, abstract, paragraph 0032-0033).

Allowable Subject Matter

5. Claims **4-8, 10, 12, 18-20** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khai M. Nguyen whose telephone number is 571.272.7923. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on 571.272.7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Khai Nguyen
AU: 2687

2/3/2006


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